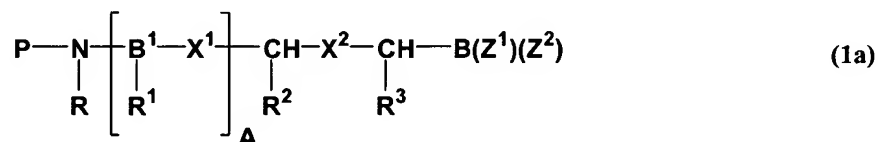


REMARKS

Claims 1-24 are pending in the application, with claims 7, 11, and 20 being withdrawn from consideration. Claims 1 and 14 have been amended. Upon entry of the foregoing amendment, claims 1-24 will remain pending in the application.

Responsive to Applicants' election of species filed on October 21, 2004, the Office Action at page 4 defines the scope of the elected as follows:

compounds according to formula (1a):



as depicted in claim 1, wherein A is zero, R is hydrogen, R² and R³ are as defined, R⁵ is aryl, Z¹ and Z² are alkyl, hydroxy, or alkoxy, and P is R⁷-C(O)- or R⁷NH-C(O)-, or R⁷-O-C(O)- wherein R⁷ is non-heteroaryl containing.

As a result of the scope of the invention identified in the Office Action, claims 7, 11, and 20 stand withdrawn from consideration, and claims 1-6, 8-10, 12-19, and 21-24 stand objected to as containing non-elected subject matter.

As indicated at page 2 of the Office Action, intra-Markush restriction is governed by MPEP 803.02:

A Markush-type claim can include independent and distinct inventions...In applications containing claims of that nature, the examiner may require a provisional election of a single species prior to examination on the merits...The Markush-type claim would then be examined fully with respect to the elected species and any species considered to be clearly unpatentable over the elected species. If on examination the elected species is found to be anticipated or rendered obvious by prior art, the Markush-type claim and claims to the elected species shall be rejected, and claims to the nonelected species would be held withdrawn from further consideration...On the other hand, should no prior art be found that anticipates or renders obvious the elected species, the search of the Markush-type claim will be extended.

In the instant application, search of the elected species (as defined above) apparently revealed no relevant art, because no claim rejection has been made. Pursuant to MPEP § 803.02, therefore, Applicants submit that the search should be expanded to include non-elected species.

Applicants thank the Examiner for her helpful remarks during a telephone conference with their undersigned representative on April 8, 2005. During this conference, Applicants agreed to limit the definition for R^5 to optionally substituted aryl or cycloalkyl groups solely to conform to the scope of the search conducted by the Examiner. Claims 1 and 14 have been amended accordingly. The Examiner agreed to expand the search to include embodiments wherein Z^1 and Z^2 together form a moiety derived from a dihydroxy compound. The Examiner also agreed to consider expanding the search with respect to the amino group protecting moiety P, including an expansion of the definition for R^7 . Accordingly, Applicants have made no amendment to the Z^1 , Z^2 , or P definitions at this time.

At page 5 of the Office Action, Claims 1-6, 8-10, 12-19, and 21-24 are objected to because of the use of the variable "P" in the structure of formula (1a). During the telephone conference on April 8, 2005, the Examiner agreed to reconsider this objection. Accordingly, Applicants have not amended the "P" designation at this time.

This response is being timely filed within the three-month time period set for reply. No extensions of time are believed to be due. In the event any extensions of time are necessary, the undersigned hereby authorizes the requisite fees to be charged to Deposit Account No. 501668.

Entry of the remarks made herein is respectfully requested. If the Examiner believes that any further discussion of this communication would be helpful, she is invited to contact the undersigned at the telephone number provided below.

11 April 2005

Respectfully submitted,

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